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OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department

Drafting Section

Notification

LD/5/6/83(D)

The following Ordinance promulgated by the Administrator of Goa, Daman and Diu is hereby published for general information.

B. S. Subbanna, Under Secretary (Drafting).

Panaji, 22nd August, 1983.

THE GOA, DAMAN AND DIU PRESERVATION OF TREES SECOND ORDINANCE, 1983

Ordinance No. 2 of 1983

Promulgated by the Administrator in the Thirty-fourth Year of the Republic of India.

An Ordinance to provide for preservation of trees in the Union territory of Goa, Daman and Diu.

Whereas the Legislature of the Union territory of Goa, Daman and Diu is not in session and the Administrator is satisfied that circumstances exist which render it necessary for him to take immediate action;

And Whereas the instructions of the President have been obtained in pursuance of the first proviso to clause (1) of article 239 B of the Constitution.

Now, therefore, in exercise of the powers conferred by clause (1) of article 239B of the Constitution, the Administrator is pleased to promulgate the following Ordinance:—

1. Short title, extent and commencement.— (1) This Ordinance may be called the Goa, Daman and Diu Preservation of Trees Second Ordinance, 1983.

(2) It shall extend to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force at once.

2. Definitions.— In this Ordinance, unless the context otherwise requires,—

(a) "Appellate Authority" means an authority appointed by the Government as appellate authority under this Ordinance;

(b) "blank area" means any piece of land (not being under cultivation) which has five or less number of trees growing on every half hectare of such land;

(c) "Conservator of Forests" means Conservator, Forests, Union territory of Goa, Daman and Diu;

(d) "Deputy Conservator of Forests" means the Forest Officer in-charge of a Forest Division and exercising jurisdiction over that Division;

(e) "Government" means the Government of the Union territory of Goa, Daman and Diu;

(f) "Government garden" means a piece of land belonging to the Government which is used for growing flowers, fruits or vegetables or for planting or raising trees of any kind and includes a grove land belonging to the Government;

(g) "notification" means a notification published in the Official Gazette;

(h) "prescribed" means prescribed by rules made under Ordinance;

(i) "rural area" means an area specified in Schedule I or Schedule II of this Ordinance;

(j) "to fell a tree" with its cognate expression, means severing the trunk from the roots, uprooting the tree and includes bull-dozing, cutting, girdling, lopping, pollarding, applying arboricides, burning or damaging a tree in any other manner;

(k) "tree" means any woody plant whose branches spring from and are supported upon a trunk or body and whose trunk or body is not less than five centimetres in diameter at a height of thirty centimetres from the ground level and is not less than one metre in height from the ground level and includes palms, bamboos, stumps, brush woods, canes and seedlings of such trees;

(l) "Tree Officer" means a Forest Officer appointed as such by the Conservator of Forests for the purposes of this Ordinance;

(m) "urban area" means an area comprised in a municipality and includes such area as may be notified as urban area by the Government, from time to time, for the purposes of this Ordinance;

(n) "wood lot" means any piece of land of which trees form the main crop, the number of such trees in each hectare being not less than twenty five;

(o) words and expressions used in this Ordinance and defined in the Indian Forest Act, 1927 (Central Act 16 of 1927), but not defined in this Ordinance shall have the meaning respectively assigned to them in that Act.

CHAPTER II

Tree Authority

3. **Establishment of the Tree Authority.** — (1) The Government shall, by notification, constitute a Tree Authority for each revenue district in the Union territory of Goa, Daman and Diu.

(2) The Tree Authority shall consist of the following members, namely: —

(i) Development Commissioner or any other Officer of the Government, not below the rank of a Secretary to that Government, nominated by the Government — Chairman;

(ii) Collector of the concerned revenue district — Member.

(iii) two Members of the Legislative Assembly of the Union territory of Goa, Daman and Diu nominated by the Government — Members.

(iv) two representatives of the local bodies nominated by the Government — Members.

(v) Conservator of Forests or his nominee — Member-Secretary.

(3) The Tree Authority may co-opt not more than three representatives of non-official organisations having special knowledge or practical experience in the preservation of trees as members in such manner and for such period as it may determine.

4. **Meeting of the Tree Authority.** — (1) The Tree Authority shall meet at least once in three months at such place and time as the Chairman may decide.

(2) The quorum to constitute a meeting of the Tree Authority shall be three members referred to in sub-section (2) of section 3.

(3) No co-opted member shall have the right to vote at a meeting.

CHAPTER III

Officers and Servants

5. **Appointment of Tree Officer.** — The Conservator of Forests may appoint one or more Forest Officers of a rank not below that of a Deputy Conservator of Forests, as Tree Officers for the purposes of this Ordinance.

6. **Appointment of other Officers.** — The Conservator of Forests may, from time to time, appoint such other officers and servants, as he may consider necessary, who shall be subordinate to the Tree Officer.

CHAPTER IV

Duties of Tree Authority

7. **Duties of Tree Authority.** — Notwithstanding anything contained in any other law for the time being in force, the Tree Authority shall, subject to any general or special order of the Government, be responsible for: —

(a) the preservation of all trees within its jurisdiction;

(b) carrying out census of the existing trees and obtaining, whenever considered necessary, declarations from all owners or occupants about the number of trees in their lands;

(c) specifying standards regarding the number and kind of trees which each locality, type of land and premises shall have and which shall be planted subject to a minimum of five trees per hectare in the case of rural areas;

(d) development and maintenance of nurseries, supply of seeds, sapplings and trees to persons who are required to plant new trees or to replace trees which have been felled;

(e) planting and transplanting of trees necessary by construction of buildings, new roads or widening of existing roads or replacement of trees which have failed to come up along roads or for safeguarding danger to life and property;

(f) organisation of demonstration and extension services for the purposes of this Ordinance and assisting private and public institutions connected with planting and preservation of trees;

(g) planting and maintaining such number of trees, as may be considered necessary, according to the prescribed standards, on roads, in public parks and gardens and on the banks of rivers or lakes or seashores;

(h) undertaking such schemes or measures, as may be directed, from time to time, by the Government, for achieving the objects of this Ordinance;

(i) undertaking critical study of the proposals of various Government Departments and private bodies for construction of buildings, roads, factories, irrigation works, laying out of electric, telephone, telegraphic and other transmission lines with regard to protection of existing trees and planting of more trees, wherever possible; and

(j) promotion, demarcation, acquisition and development of land as wood lots, gardens, parks and picnic spots in cities, towns and villages for the use and recreation of public.

CHAPTER V

Restriction on felling and removal of trees and liabilities for preservation of trees

8. Restriction on felling and removal of trees. — Notwithstanding anything contained in any other law for the time being in force or in any custom or usage or contract, except as provided in this Ordinance or the rules made thereunder, no person shall fell or remove or dispose of any tree in any land, whether in his ownership or occupancy or otherwise, except with the previous permission of the Tree Officer:

Provided that if the tree is not immediately felled, there would be grave danger to life or property or traffic, the owner or the occupant of the land may take immediate action to fell such tree and report the fact to the Tree Officer within twenty-four hours of such felling.

9. Procedure for obtaining permission to fell, cut, remove or dispose of a tree. — (1) Any person desiring to fell or remove or otherwise dispose of by any means a tree, shall make an application to the concerned Tree Officer for permission and such application shall be accompanied by attested copies of the documents in support of ownership over the land, the number and kind of trees to be cut, their girth measured at a height of 1.35 metres from ground level and the reasons therefor, survey sketch showing clearly the site and survey numbers of the property.

(2) On receipt of the application, the Tree Officer may, after inspecting the tree and holding such enquiry as he may deem necessary, either grant permission in whole or in part or for reasons to be recorded in writing, refuse permission:

Provided that such permission shall not be refused, if the tree—

- (i) is dead, diseased or wind-fallen; or
- (ii) is silviculturally mature provided it does not occur on a steep slope; or
- (iii) constitutes a danger to life or property; or
- (iv) constitutes obstruction to traffic; or
- (v) is substantially damaged or destroyed by fire, lightning, rain or other natural causes; or
- (vi) is required in rural areas to be cut with a view to appropriating the wood or leaves thereof or any part thereof for bonafide use as fuel, fodder, agricultural implements or other domestic use.

(3) The Tree Officer shall give his decision within sixty days from the date of receipt of the application.

(4) If the Tree Officer fails to communicate his permission or refusal within the period specified under sub-clause (3), the permission referred to in section 8 shall be deemed to have been granted.

(5) Every permission granted under this Ordinance shall be in such form and subject to such conditions, including taking of security for ensuring regeneration of the area and replanting of tree or otherwise, as may be prescribed.

10. Obligation to plant trees. — Every person, who is granted permission under this Ordinance to fell or dispose of any tree, shall be bound to plant such number and kind of trees in the area from which the tree is felled or disposed of by him under such permission, as may be directed by the Tree Officer:

Provided that the Tree Officer may, for reasons to be recorded in writing, permit lesser number of trees to be planted or trees to be planted in any different area or exempt any person from the obligations to plant or tend any tree.

11. Planting of adequate number of trees in blank areas. — (1) Every owner or occupant of land shall within a period of two years from the date of commencement of this Ordinance or within such extended period as the Tree Authority may specify in this behalf, plant trees in blank areas so as to conform to the standards specified by it under sub-clause (c) of section 7.

(2) Where the Tree Officer is of the opinion that the number of trees in any land is not adequate according to standard referred to in sub-section (1), he may issue a notice to the owner or occupier of such land, as the case may be, to show cause as to why trees should not be planted in such land as may be specified in such notice.

(3) The notice referred to in sub-section (2) shall be given in such form and shall contain such particulars and shall be served in such manner as may be prescribed.

(4) The Tree Officer may, after considering the cause, if any, shown by the owner or occupier of such land, direct him to plant such number and class of trees as may be specified in the direction.

12. Preservation of trees. — (1) Subject to the provisions of section 14, it shall be the duty of the owner or occupier of the land to comply with an order made under section 9, or a direction issued under section 10 or section 11 and to plant trees in accordance with such an order or direction and to ensure that they grow well and are well preserved.

(2) All the owners and occupiers shall effectively protect all the trees growing in the lands or the areas under their control and where the Tree Officer is of the opinion that adequate measures have not been taken to protect the trees from any damage, he may direct the owner or occupier, as the case may be, to take such measures. In case of default, the Tree Officer may himself arrange such measures and recover the expenditure thereon from the owner or occupier in the prescribed manner.

13. Implementation of order made or directions given under sections 9, 10 and 11 and recovery of expenditure on failure to comply with them. — (1) Every person who is under an obligation to plant trees under an order made under section 9 or a direction given under section 10 or section 11 shall start preparatory work within thirty days of the date of receipt of the order or the direction, as the case may be, and shall plant trees in accordance with such order or direction in the ensuing or following rainy season or within such extended time as the Tree Officer concerned may allow and shall

provide adequate and effective protection to the trees that exist or are planted in the land or the area from any damage.

(2) In case of default by such person, the Tree Officer may cause trees to be planted and may recover the cost of plantation from such person in the prescribed manner.

14. Adoption of trees. — Notwithstanding anything contained in any other provision of this Ordinance or in any other law for the time being in force, the Tree Authority may, subject to such terms and conditions, as it may specify in that behalf and, after giving notice to the owner of the tree, to show cause as to why the tree may not be given in adoption, allow, by a written permission, any individual, body corporate or institution to adopt any tree for such period, as may be specified in the permission and during such period the said individual, body corporate or institution shall be responsible for the maintenance and preservation of the said tree.

15. Appeal. — (1) An appeal shall lie against the order or direction of the Tree Officer under sections 9, 10, 11 and 12 to the Appellate Authority within thirty days from the date of the order:

Provided that an appeal may be admitted after the expiry of the said period of thirty days, if the appellant satisfies the Appellate Authority that he had sufficient cause for not preferring the appeal within that period.

(2) Every appeal under this section shall be made by a petition in writing and shall be accompanied by a copy of the order or direction appealed against and shall be accompanied by a fee of ten rupees.

(3) In disposing of an appeal, the Appellate Authority shall follow such procedure as may be prescribed:

Provided that no appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

CHAPTER VI

Penalties and Procedure

16. Seizure of property. — Where the Tree Officer has reasons to believe that an offence under this Ordinance is committed in respect of any tree, he may seize the tools, implements, any boats, vehicles, animals or other conveyances used for the commission of the said offence, along with the tree or part thereof, which has been severed from the ground or the trunk, as the case may be.

17. Forfeiture of timber and other produce from the tree, implements used for felling and the vehicle and animal used for transport of such trees. — (1) Where any person is convicted of an offence under this Ordinance, any timber or the tree in respect of which an offence is committed, the tools and implements used for felling, and any boats, vehicles, animals or other conveyances used for its transport may be ordered by the Court to be forfeited to Government.

(2) Any timber, produce from the tree, tools and implements, and any boats, vehicles, animals or other conveyances forfeited under sub-section (1) shall be disposed of by the Tree Officer in such manner as may be prescribed.

18. Power to release property seized under section 16. — The Tree Officer may release the properties seized under section 16 if the owner or occupant of the land thereof executes a bond in such form as may be prescribed for their production whenever required.

19. Power to arrest without warrant. — (1) Any Tree Officer or a Forest Officer not below the rank of Forest Ranger or a Police Officer not below the rank of a Sub-Inspector may, without a warrant, arrest any person reasonably suspected of having been concerned in any offence under this Ordinance, or if such person refuses to give his name or address or gives a name or address which the concerned officer has reason to believe to be false or if he has reason to believe that the person will abscond.

(2) Any person arrested under sub-section (1) shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate having jurisdiction in the case within twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of the Magistrate.

20. Power to release person arrested. — Any officer who has arrested any person under the provisions of sub-section (1) of section 19 may release such person on his executing a bond with proper surety to appear, if and when so required, before the Magistrate having jurisdiction in the case, or before the Police or the Forest Officer not below the rank of Deputy Conservator of Forests or the Tree Officer concerned where the Tree Officer is of the rank of the Deputy Conservator of Forests.

21. Power to prevent commission of offence. — Every Tree Officer or his subordinates or any Forest, Revenue or Police Officer shall prevent and may interfere for the purpose of preventing the commission of any offence under this Ordinance.

22. Power to compound offence. — (1) The Government may, by notification, empower a Tree Officer where the Tree Officer is of the rank of a Deputy Conservator of Forests or any Forest Officer not below the rank of Deputy Conservator of Forests —

(a) to compound any offence committed under this Ordinance on payment of —

(i) a sum of not less than five hundred rupees and not exceeding five thousand rupees by way of composition for the offence which such person is suspected to have committed, and

(ii) the value of timber and other produce, if any, from the tree in respect of which the offence has been committed.

(b) to release any property seized or liable to confiscation, on payment of the value thereof, as

estimated by such officer and the amount determined as payable for composition of the offence, as ordered by the Tree Officer or any Forest Officer, as the case may be.

(2) On the payment of such sums or such value or both, as the case may be, to such officer, the property seized and the offender, if in custody, shall be released and no further proceedings shall be taken against such offender or property.

23. Contravention of Ordinance to be reported by certain officers.—It shall be the duty of every forest officer, panchayat secretary, police constable or any officer superior to him and every officer of the Department of Agriculture, Land Survey and Revenue.

(a) to give immediate information coming to his knowledge, of any contravention of section 8 to the Tree Officer or the Deputy Conservator of Forests;

(b) to take all reasonable measures in his power to prevent such contravention which he may know or have reasons to believe that it is about or likely to be committed.

24. Offences by companies.—(1) Where an offence under this Ordinance has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any such punishment provided in this Ordinance, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it was proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary, or other officer of the company, such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

25. Penalty.—(1) Any person who contravenes any of the provisions of this Ordinance or rules or orders made thereunder shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

(2) Every Forest Officer or Police Officer who vexatiously and unnecessarily arrests or seizes any property on pretence of such property being liable to forfeiture under this Ordinance, shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

26. Award of penalty or forfeiture not to interfere with other punishment.—The award of penalty or forfeiture of any property under this Ordinance shall not prevent the inflicting of any punishment to which the person affected thereby is liable under any other law.

CHAPTER VII

Miscellaneous

27. Officers to be public servants.—The officers exercising powers or discharging any duties or functions under this Ordinance shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act 45 of 1860).

28. Bar of proceedings.—No suit or proceedings shall lie against the Government or any person empowered to exercise powers or to perform duties or discharge functions under this Ordinance, for anything done or purporting to be done or omitted to be done in good faith under this Ordinance or the rules and orders made thereunder.

29. Executions of order for payment of money.—Any sum, including any amount for composition of an offence, the payment of which has been directed to be made by any person under this Ordinance, shall, without prejudice to any other mode of recovery under any law for the time being in force, be recoverable from him as an arrear of land revenue.

30. Act not to apply to certain areas.—The provisions of this Ordinance shall not apply to:—

(i) Government forests under the control of the Forest Department;

(ii) a forest or forest land notified under the Indian Forest Act, 1927 (Central Act 16 of 1927);

(iii) Government Garden;

(iv) areas declared as Wild Life Sanctuaries and National Parks, Wild Life Reserves, Shooting Blocks and other areas as provided in the Wild Life (Protection) Act, 1972 (Central Act 53 of 1972); and

(v) other lands and areas under the charge of the Government.

31. Power of the Government to exempt.—Subject to such conditions, if any, as may be imposed, the Government may, if it considers it necessary so to do in the public interest, by notification, exempt any area or any species of trees from all or any of the provisions of this Ordinance.

32. Power of the Government for preservation of trees.—(1) The Government may in the interest of general public, declare by notification that any class of trees shall not be felled for such period as is specified in that notification.

(2) The management of such trees shall be regulated in the prescribed manner.

33. Investing Tree Officer with certain powers. —

(1) The Government may, by notification, invest the Tree Officer and other officers with all or any of the following powers, namely: —

- (a) power to enter upon any land and to survey, demarcate and make a map of the same;
- (b) powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;
- (c) power to issue a search warrant under the Code of Criminal Procedure, 1973 (Central Act 2 of 1974);
- (d) power to hold enquiries into offences under the Ordinance and in the course of such enquiry to receive and record evidence;
- (e) power to take possession of property under the Ordinance;
- (f) power to direct release of property or withdrawal of charges;
- (g) power to require any person to plant tree or trees of suitable species in adequate numbers on any land owned or occupied by him.

(2) Any evidence recorded under clause (d) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate if such evidence has been taken in the presence of the accused person and recorded in the manner provided by section 274, section 276 or section 277 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

34. Transit of felled material. — The provisions of section 41 of the Indian Forest Act, 1927 (Central Act 16 of 1927) and Chapter V of the Goa, Daman and Diu Forest Rules, 1964 shall, *mutatis mutandis*, apply to the transit of the felled trees under this Ordinance.

35. Power of the Government to give direction. — The Government may, from time to time, give to the Tree Officers, other officers of the Tree Authority and officers subordinate to them general or

special directions regarding the discharge of their functions and for carrying out effectively the purposes of this Ordinance, and such Tree Officers and other officers shall comply with the directions so issued.

36. Power to make rules. — The Government may, by notification, make rules to carry out the purposes of this Ordinance.

37. Provision of this Ordinance to be in addition to any other law for the time being in force. — Nothing in this Ordinance shall be deemed to affect the operation of any other Act and the rules made thereunder and the provisions of this Ordinance shall be in addition to and not in derogation of the provisions of the said Act and rules made thereunder.

38. Repeal and saving. — (1) The Goa, Daman and Diu Preservation of Trees Ordinance, 1983 (Ordinance No. 1 of 1983) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Ordinance as if this Ordinance were in force on the day on which such thing or action was done or taken.

SCHEDULE I

(See section 2)

Areas comprising of land, outside the urban areas, under cultivation of coconut, areca-nuts, rubber, cocoa, cashewnut, mango, sapota or any other horticultural crop, including woodlots and land belonging to the Government and leased out in favour of others.

SCHEDULE II

(See section 2)

Areas comprising of lands outside the urban areas other than those included in Schedule I.

Cabo Raj Niwas

DONÁ PAULA

22nd August, 1983.

K. T. SATARAWALA

Administrator